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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN JOSE DIVISION
15

16 BROCADE COMMUNICATIONS SYSTEMS,
INC., a Delaware corporation; and FOUNDRY
17 NETWORKS, LLC, a Delaware limited liability
18 company,

19 Plaintiffs,

20 v.

21 A10 NETWORKS, INC., a California corporation;
22 LEE CHEN, an individual; RAJKUMAR JALAN,
an individual; RON SZETO, an individual;
23 DAVID CHEUNG, an individual; LIANG HAN,
an individual; and STEVE HWANG, an individual,
24

25 Defendants.
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Case No. 5:10-cv-03428-LHK

**FURTHER STIPULATION AND
[PROPOSED] ORDER REGARDING
SOURCE CODE COMPARISONS
ORDERED BY THE COURT**

1 IT IS HEREBY STIPULATED by and among Plaintiffs Brocade Communications Systems,
2 Inc. (“Brocade”) and Foundry Networks, LLC (“Foundry”) and Defendant A10 Networks, Inc.
3 (“A10”) (collectively, “the parties”):

4 1. The parties recognize and agree to the following regarding the source code
5 comparisons ordered by this Court on May 9, 2011 (Dkt. No. 90). The parties represent that they
6 have complied with the Court’s order by depositing their source code at the Iron Mountain facility
7 located at 29555 Kouhoutek Way, Union City, CA 94587 (“Iron Mountain”).

8 2. Unless otherwise agreed to by the parties, or ordered by the Court, the Brocade and
9 Foundry source code and the A10 source code can be loaded onto a computer provided by Brocade
10 and Foundry’s disclosed experts that is “clean,” *i.e.*, shall not have the ability to access any other
11 network (including the Internet) and shall be free of any other software code other than the software
12 that will be used by Brocade and Foundry’s disclosed experts to perform the previously-ordered
13 source code comparisons. At least twenty-four (24) hours before any comparisons are initiated,
14 Brocade and Foundry shall sufficiently identify any software that their disclosed experts intend to
15 use to perform the comparisons. The parties reserve their rights to seek an order compelling the
16 production of any proprietary scripts or software used to perform the comparisons.

17 3. A10 and its disclosed experts shall have the opportunity to do its own comparisons to
18 the same source code on which the Brocade and Foundry experts performed their comparisons. The
19 procedure outlined above that shall govern the comparisons performed by Brocade and Foundry’s
20 disclosed experts (*see* Paragraph 2) shall apply equally to A10 and its disclosed experts. That is, the
21 Brocade and Foundry source code and the A10 source code can be loaded onto a computer provided
22 by A10’s disclosed experts that is “clean,” *i.e.*, shall not have the ability to access any other network
23 (including the Internet) and shall be free of any other software other than the software that will be
24 used by A10’s disclosed experts to perform their comparisons. At least twenty-four (24) hours
25 before any comparisons are initiated, A10 shall sufficiently identify any software that its disclosed
26 experts intend to use to perform their comparisons. A reasonable time shall be allotted for the parties
27 to complete their comparisons. The parties shall notify one another when they have completed their
28 comparisons, and thereafter shall cooperate in taking appropriate steps to remove their deposits with

1 Iron Mountain. The computers used for the comparisons shall be cleaned before they are removed
2 from Iron Mountain.

3 4. For any comparison conducted by a parties' expert, each party must record and keep
4 the following, on a daily basis: (a) all results produced by the comparisons; (b) a list of any and all
5 commands and/or qualifiers/parameters issued to the comparison program(s) and/or tool(s) being
6 used to generate the results; and (c) a log detailing any intermediate output generated by the
7 comparison program(s) and/or tool(s) as the comparisons were being run. Any and all such recorded
8 data (*see* (a)-(c) above) shall be stored in a separate folder on the computer used to perform the
9 comparisons, where the folder for any given day will be maintained separately and distinguished
10 from the folder(s) for other days on which comparisons were performed (by, e.g., having the day's
11 date included in the folder's name). After the completion of each day's comparison work, the
12 party's expert(s) performing the comparisons shall make no more than two (2) copies of the data
13 contained in that day's folder. Each copy shall be marked with the highest level of confidentiality
14 according to the Stipulated Protective Order (*see* Dkt. No. 94). The party whose experts performed
15 the analysis may keep one copy, with the remaining copy being deposited with Iron Mountain, who
16 shall keep that copy and deliver it upon demand to the opposing party's outside counsel or its
17 retained expert(s).

18 5. Nothing in this stipulation is intended to limit any review or comparison performed
19 by the parties' attorneys and such attorney work product remains immune from discovery.
20 Concurrence in the filing of this document has been obtained from Fabio E. Marino, pursuant to
21 General Order 45(X)(B).

22 Dated: June 27, 2011

FINNEGAN, HENDERSON, FARABOW
GARRETT & DUNNER, L.L.P.

23
24 By: _____ /s/ Scott R. Mosko
25 Scott R. Mosko

26 Attorneys for Defendants
27 A10 NETWORKS, INC., LEE CHEN,
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Dated: June 27, 2011

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By: /s/ Fabio E. Marino
Fabio E. Marino

Attorneys for Plaintiffs
BROCADE COMMUNICATIONS SYSTEMS,
INC., and FOUNDRY NETWORKS, LLC

ORDER

Pursuant to stipulation, IT IS SO ORDERED.

Dated: July 1, 2011


Lucy H. Koh
United States District Judge